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III. REMARKS/ARGUMENTS

Response to Rejections Based on 35 U.S.C. § 102(b)

The Examiner has indicated that claims 1-13 are pending in the application; that claims 1-13 are rejected under 35 U.S.C. 102(b) as anticipated by the patent to Davis (USP 5,119,830) or Davis (5,595,187).

Section 102(b) provides that "a person shall be entitled to a patent unless the invention was patented or described in a printed publication ... more than one year prior to the date of the application." 35 U.S.C. §102(b) (2000). Accordingly, a rejection based on anticipation requires that the "four corners" of a single, prior art document describe every element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. See *Atlas Powder Co. v. Ireco, Inc.*, 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994). The specification of a patent must do more than merely indicate that the disclosed device may be used to perform another function. See *Straussler v. United States*, 339 F.2d 670, 671 (Ct. Cl. 1964). The prior art reference must be enabling, thus placing the claimed invention in the possession of the public. See *Akzo N.V. v. United States Int'l Trade Comm'n*, 808 F.2d 1471, 1479 (Fed. Cir. 1986).

In the instant case, the patents to Davis each disclose, teach, and claim an analytical specimen cup that includes a cap with dry chemical test strips disposed in the cap. However, both patents are predicated on a method of exposing the test strips to a fluid specimen by flooding the test strips with the fluid specimen within the test chamber. The '830 patents shows means to control the introduction of fluid, but such means comprise a hinged valve (46) that may be manually operable or automatically opens upon tilting of the specimen cup. However, once the hinge is opened, the test space (42) is effectively flooded with fluid.

The '187 patent does not describe any means to regulate or control the introduction of

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fluids into the test space sump (64) other than the size of the opening (50) in the cap partition (40).

The present invention is distinguishable from the Davis patents in that it provides means to control the ingress of fluid from the specimen cup to the test chamber, and additionally provides a strip absorbent pad disposed in the opening from the specimen cup to the test chamber, and thereby interposed between the specimen cup and the test strips. This ensures that the test strips are not flooded with fluid samples, as urine toxicology tests utilizing immunochromatography strips do not work when flooded, but only through wicking. Accordingly, the strip absorbent pad delivers fluid only to the first ends of the test strips in a controlled manner for wicking.

This feature and claim limitation is set out in amended claim 1 and in new claim 14, and it alone distinguishes over the Davis '187 and '830 patents. Accordingly, it is respectfully submitted that claims 1 and 14, and all claims depending therefrom, are in condition for allowance, and such allowance is therefore respectfully requested.

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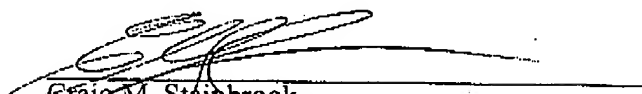
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IV. CONCLUSION

In view of these amendments and comments it is believed that each of the presently pending claims in this application is in condition for immediate allowance, and such allowance is therefore respectfully requested. The Examiner is invited to call Applicant's undersigned attorney if, in the opinion of the Examiner, a telephone conference will in any way expedite prosecution of this application.

Respectfully Submitted,

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